

community. Fox Television Stations, Inc., 9 FCC Rcd 62, 63, 74 RR 2d 922, 924 (1993), Simon Geller, 90 FCC 2d 250, 264-265, 51 RR 2d 1019, 1032 (1982). TBF argues that children have their own special needs and interests. TBF Conclusions, ¶762 P. 528. If one accepts that premise, TBF's showing is defective because none of its ascertainment efforts were designed to determine what the special needs and interests of children in the Miami area were. None of the children's programming was local programming, and no showing was made that any ascertainment efforts were directed towards children. Another problem is that TBF's showing is far too general to support a conclusion that the programs were responsive to the needs and interests of children. No specific program segments were described, and no showing was made as to what needs and interests were addressed on which programs.

222. TBF's claim that its children's programs were "strictly educational and informational" as opposed to entertainment (TBF Conclusions, ¶764 P. 530) is contrary to the record. Most of the programs were clearly entertainment programs. Thus, Kid's Praise the Lord was a variety show, Joy Junction and the Gospel Bill Show were shows with western themes, Davey and Goliath was a claymation adventure show, Real Videos and Dallas Holm were music video programs, John Jacobs and the Power Team featured exhibitions of strength, Circle Square featured music, skits, and travel segments,

Superbook and The Filling Station were animated variety programs, and Quigley's Village featured the adventures of a robot, music and songs. See Glendale Findings, ¶¶456-469 Pp. 252-258. An independent reason for denying renewal expectancy credit for these programs is that entertainment programs do not form a basis for awarding a renewal expectancy. Glendale Conclusions, ¶678 P. 397.

223. Finally, the presence of a moral theme in a program is not an appropriate basis for awarding credit. It is not the Commission's role to judge whether a program is moral or decent or has an appropriate (or inappropriate) theme. The Commission is not a censor. See 47 U.S.C. §326. The Commission could not legitimately pass on the morality of programming without entangling itself in the question of whose morality is appropriate or inappropriate. Many movies and other entertainment programs have moral themes, but that does not make those programs relevant to a renewal expectancy showing.²⁰

C. TBF's Community Involvement

224. The Bureau argues in its conclusions that TBF's record of community service is comparable to the records in

²⁰ TBF relies upon testimony concerning telephone discussions with viewers of children's programming by Ms. Dressler in southern California. TBF Findings, ¶480 Pp. 329-330. The Presiding Judge has already ruled that this testimony is "worthless." Tr. 449.

Fox Television Stations, Inc., 8 FCC Rcd 2361, 2416-2418 (Rev. Bd. 1993) and Metroplex Communications, Inc., 4 FCC Rcd 8149, 8156 (Rev. Bd. 1989). Bureau Conclusions, ¶318 P. 164. As noted above, TBF is only entitled to renewal expectancy credit for one program: His Hand Extended. Even if credit is awarded for the "Prayer Partner Line", however, TBF's record of community involvement is far inferior to the records present in Fox and Metroplex. Those licensees were involved in a far greater number and variety of activities serving more people than TBF was.

225. A review of the Metroplex initial decision (4 FCC Rcd 847, 853-857 (ALJ 1989)) shows that during a one year renewal period, the licensee was engaged in at least twenty-four major community activities. The licensee's activities helped many people who were served by broad-based community organizations such as the March of Dimes, the American Cancer Society, jobs programs at many local schools, and the United Negro College Fund. While TBF is entitled to some credit for His Hand Extended, the Metroplex licensee showed far greater involvement in the community in a one year period than TBF did in a five year period.

226. The Fox licensee was also involved in many more activities than TBF. That licensee executed a "major public service initiative" to bring the community together and to protect children. It also spent a year developing a major

program to help the homeless. It also sponsored many activities, and its employees were involved in a wide variety of community activities. See Fox Television Stations, Inc., 7 FCC Rcd 3801, 3829-3830 (ALJ 1992). Any comparison between TBF and the Metroplex and Fox licensees is most unfavorable to TBF.²¹

D. Use of Minority Hosts

227. TBF argues that it "treated" the issue of discrimination and ethnic tension by having racial minorities as hosts and guests on its programs. TBF Findings, ¶504 Pp. 340-341, TBF Conclusions, ¶755 P. 523. TBF does not cite one case for the proposition that the problems of minority groups can be solved by merely having minorities appear on the station. Having a face on the air is no substitute for a meaningful discussion of the problems of minorities in the Miami area - something that was sorely missing on WHFT(TV). In three of the quarters in which discrimination was ascertained to be a top community issue, TBF did not have one local program addressing this issue. Glendale Findings, ¶486

²¹ In its community involvement conclusions, TBF discusses public witness testimony from people who appeared on the station and received referrals or assistance from viewers as a result of those appearances. TBF Conclusions, ¶¶779-783 Pp. 538-541. These activities have nothing to do with civic activities by the station and are more appropriately considered under its programming or public witness testimony. TBF may not receive double or triple credit for the same program or activity under different renewal expectancy criteria.

P. 263. TBF was unique among Miami are television stations in that it totally ignored the efforts of the Miami-Dade Branch of the NAACP to establish a dialogue and to highlight matters of interest to the minority communities. SALAD Ex. 17. TBF's effort to avoid a meaningful treatment of the discrimination issue by pointing to the fact that some hosts and guests were minorities is, at best, simplistic.

E. WHFT's Subjective Impact

228. In ¶¶760-761 of its proposed conclusions (Pp. 526-528), TBF claims credit because its programming allegedly:

had a direct, immediate and sometimes life saving impact on viewers' lives. In a real sense WHFT programming "treated" community problems by exerting a direct impact on viewers: drug and alcohol addicted viewers who enrolled in a treatment programs [sic]; troubled individuals who received counseling and help; even gang members who attempted to opt out of their violent lifestyle -- all as a direct result of WHFT public service programming.

See ¶761 P. 528. This argument is yet another attempt to claim credit for something which the Presiding Judge has already ruled is not relevant: the subjective impact of TBF programming on its viewers. The Presiding Judge has indicated that the Commission is looking for objective criteria and that it is wholly impractical for the Commission to get into the subjective question of whether someone sought help because of a television program or for some other reason. Tr. 121-132.

TBF is using much of its public witness testimony to claim such "subjective" credit. Clearly, that testimony has no relevance to this proceeding.

F. The Comparative Impact of a "Minimal" Renewal Expectancy

229. If the Presiding Judge accepts the Bureau's conclusion that TBF is entitled to a "minimal" renewal expectancy, such a credit would not make TBF the comparatively superior applicant. In approving the Commission's formulation of a renewal expectancy, the Court of Appeals warned the Commission that renewal expectancy may not be considered to the exclusion of all other comparative factors. Central Florida Enterprises, Inc. v. FCC, 683 F.2d 503, 506, 51 RR 2d 1405, 1408 (D.C. Cir. 1982). The Court held (emphasis in original):

The new policy, as we understand it, is simply this: renewal expectancy is to be a factor weighed with all the other factors, and the better the past record, the greater the renewal expectancy 'weight.'

A minimal renewal expectancy would have to be weighed against Glendale's overwhelming diversification advantage. Indeed, Glendale is unaware of any licensee who holds more broadcast authorizations than TBN and its affiliates. In this case, that very strong advantage would more than outweigh a very weak renewal expectancy.

230. TBF cites several cases for the proposition that a renewal expectancy always outweighs other comparative factors. TBF Conclusions, ¶786 Pp. 542-543. The Court of Appeals has clearly held otherwise. Moreover, the cases cited by TBF involved much stronger renewal expectancies than could possibly be awarded in this case.

IV. CONCLUSION

231. TBF is not qualified to remain a Commission licensee. The qualifications issues specified against Glendale must be resolved in its favor, and its application must be granted because it is the only qualified applicant. If the Presiding Judge deems it necessary to reach the comparative issue, TBF is not entitled to a renewal expectancy, and Glendale is entitled to an overwhelming diversification preference.

Accordingly, Glendale asks the Presiding Judge to grant its application for the reasons stated herein and in its proposed findings of fact and conclusions of law.

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

File No(s): BTCH-940502GF

Class of station(s): FM

<input checked="" type="checkbox"/> CONSENT TO ASSIGNMENT: <input type="checkbox"/> CONSENT TO TRANSFER CONTROL: <input type="checkbox"/> CONSENT TO TRANSFER STOCK: Whereby of Control by is effected.	FROM: James H. Garrison TO: John W. Rice
Licensee/Permittee: (for transfer only) Pleasure Island Broadcasting, Inc.	

CALL SIGN(S)

STATION LOCATION(S)

AUXILIARY STATION(S) (for assignments only)

WXAH(FM)

Orange Beach, AL

This grant is subject to the following conditions:

The authority to construct granted under (File No. BPH-871203MO), as modified by the grant of (File No. BMPH-940502JB) expires six (6) months from the date of grant of that modification unless consummation occurs within that time, in which case such authority shall extend twelve (12) months from the date of consummation.

Under authority of the Communications Act of 1934, as amended, the consent of the Federal Communications Commission is hereby granted to the transaction indicated above.

The Commission's consent to the above is based on the representations made by the applicants that the statements contained in, or made in connection with, the application are true and that the undertakings of the parties upon which this transaction is authorized will be carried out in good faith.

The actual consummation of voluntary transactions shall be completed within 60 days from the date hereof, and notice in letter form thereof shall promptly be furnished the Commission by the buyer showing the date the acts necessary to effect the transaction were completed. Upon furnishing the Commission with such written notice, this transaction will be considered completed for all purposes related to the above described station(s).

FCC Form 323, Ownership Report, must be filed within 30 days after consummation, by the licensee/permittee or assignee.

ADDITIONAL REQUIREMENTS FOR ASSIGNMENTS ONLY:

Upon consummation the assignor must deliver the permit/license, including any modifications thereof to the assignee.

It is hereby directed that, upon consummation, a copy of this consent be posted with the station authorization(s) as required by the Commission's Rules and Regulations.

The assignee is not authorized to construct nor operate said station(s) unless and until notification of consummation in letter form has been forwarded to the Commission.

Dated:

JUL 11 1994

(FOR) CHIEF, FM BRANCH, AUDIO SERVICES DIVISION, MASS MEDIA BUREAU

Lisa Scanlan



FEDERAL
COMMUNICATIONS
COMMISSION

FCC 732-FM2
August 1991

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION

209
File No. **BMPH-940502JB**
Call Sign **WXAH**

MODIFICATION OF CONSTRUCTION PERMIT
FM STATION
(Class Station)

Modification No.

-
PLEASURE ISLAND BROADCASTING, INC
P.O. BOX 1507
GULF SHORES, AL 36542
-

Permittee PLEASURE ISLAND BROADCASTING, INC

Station location: ORANGE BEACH, AL

Associated Broadcast station:

The Authority Contained in Authorization File No. BPH-871203MO

dated 10/10/91 granted to the Permittee listed above is hereby modified in part as follows:

DATE OF REQUIRED COMPLETION OF CONSTRUCTION: JAN 1 1 1995

The modification of construction permit shall be attached to and be made a part of the construction permit of this station.

Except as herein expressly modified, the above-mentioned construction permit, subject to all modifications heretofore granted by the Commission, is to continue in full force and effect in accordance with the terms and conditions thereof and for the period therein specified.

Dated:

JUL 1 1 1994

ISSUED BY: **PAS**

FEDERAL
COMMUNICATIONS
COMMISSION



F.C.C. WASHINGTON, D.C.

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COPY

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

File No.(s): BAPET-930209KF

Class of station(s): Educational TV

<input checked="" type="checkbox"/> CONSENT TO ASSIGNMENT: CP <input type="checkbox"/> CONSENT TO TRANSFER CONTROL: <input type="checkbox"/> CONSENT TO TRANSFER STOCK: Whereby of Control by is effected.	FROM Acorn Television In Action for Communities
	TO Community Television, Inc.
Licensee/Permittee: (for transfer only)	

CALL SIGN(s)

STATION LOCATION(s)

AUXILIARY STATION(s) (for assignments only)

WATC (TV) Atlanta, GA

Under authority of the Communications Act of 1934, as amended, the consent of the Federal Communications Commission is hereby granted to the transaction indicated above.

The Commission's consent to the above is based on the representations made by the applicants that the statements contained in, or made in connection with, the application are true and that the undertakings of the parties upon which this transaction is authorized will be carried out in good faith.

The actual consummation of voluntary transactions shall be completed within 60 days from the date hereof, and notice in letter form thereof shall promptly be furnished the Commission by the buyer showing the date the acts necessary to effect the transaction were completed. Upon furnishing the Commission with such written notice, this transaction will be considered completed for all purposes related to the above described station(s).

FCC Form 323 (Ownership Report), must be filed within 30 days after consummation, by the licensee/permittee or assignee.

ADDITIONAL REQUIREMENTS FOR ASSIGNMENTS ONLY:

Upon consummation the assignor must deliver the permit/license, including any modifications thereof to the assignee.

It is hereby directed that, upon consummation, a copy of this consent be posted with the station authorization(s) as required by the Commission's Rules and Regulations.

The assignee is not authorized to construct nor operate said station(s) unless and until notification of consummation in letter form has been forwarded to the Commission.

Dated: June 3, 1993
rll

Issued: 7-15-93

FEDERAL
COMMUNICATIONS
COMMISSION



FCC 732
March 1983

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION

File No. BMPET-921215KE

Call Sign WATC

Modification No.

MODIFICATION OF CONSTRUCTION PERMIT

Educational TV

(Class of station)

Acorn Television In Action for
Communities
710 Peach Street
Atlanta, GA 30308

Permittee Acorn Television In Action for Communities

Station location: Atlanta, GA

Associated Broadcast station:

The Authority Contained in Authorization File No. BPET-851018KF
dated September 10, 1986 granted to the Permittee listed above is hereby modified in part as follows:

Authority to extend completion date to: December 3, 1993

This modification of construction permit shall be attached to and be made a part of the construction permit of this station.

Except as herein expressly modified, the above-mentioned construction permit, subject to all modifications heretofore granted by the Commission, is to continue in full force and effect in accordance with the terms and conditions thereof and for the period therein specified.

Dated: June 3, 1993
rll

Issued: 7-2-93

FEDERAL
COMMUNICATIONS
COMMISSION



F. C. C. - WASHINGTON, D. C.

FCC Form 361
October 1978

CERTIFICATE OF SERVICE

I, Dana V. Chisholm, do hereby certify that on the 7th day of October, a copy of the foregoing "Reply To Proposed Findings Of Fact And Conclusions Of Law" was sent first-class mail, postage prepaid to the following:


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